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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
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9 United States of America,
10 Plaintiff,
11 v.
12 David P. Rachel,
13 Defendant.
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No. CR-12-01927-05-PHX-NVW
ORDER

15 On June 2, 2015, the court ordered Defendant David Rachel to pay restitution in
16 the amount of \$1,457,990. (Doc. 809 at 2.) The Government informed the court two
17 days later that in determining Rachel's restitution amount, which the court largely
18 adopted, the Government had correctly computed the sum he owed to each victim but had
19 "erred at the June 2 hearing when adding up" those sums. (*Id.*) According to the
20 Government, Rachel actually owed a total of \$2,003,930 in restitution. (*Id.*) The
21 Government therefore moved for an order "clarifying" the amount of restitution Rachel
22 had been ordered to pay. (Doc. 809.) Because it did not cite any authority for such a
23 revision to the judgment, the court denied the Government's motion on July 6, 2015.
24 (Doc. 887.)

25 Although a "sentence that imposes an order of restitution is a final judgment," 18
26 U.S.C. § 3664(o), that sentence may be amended in limited circumstances. Federal Rule
27 of Criminal Procedure 35(a) provides, "Within 14 days after sentencing, the court may
28 correct a sentence that resulted from arithmetical, technical, or other clear error."

1 Similarly, under Rule 36, “the court may at any time correct a clerical error in a
2 judgment, order, or other part of the record, or correct an error in the record arising from
3 oversight or omission.” Here, the Government filed its motion for clarification on June 4,
4 2015, only two days after the restitution hearing. (Doc. 809.) Therefore, whether the
5 error in calculating Rachel’s restitution amount is described as “arithmetical,” “technical”
6 or “clerical,” the Government’s motion was timely. Reconsidering the Government’s
7 request sua sponte, the court will correct Rachel’s sentence to reflect that he owes
8 \$2,003,930 in restitution to the victims identified in the Government’s June 4, 2015
9 motion. (*See* Doc. 809 at 2.)

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11 IT IS THEREFORE ORDERED that the court’s July 6, 2015 Order (Doc. 887) is
12 vacated.

13 IT IS FURTHER ORDERED that the Government’s Motion to Clarify Restitution
14 Amounts in Amended Judgments (Doc. 809) is granted. The Clerk shall amend
15 Defendant David Rachel’s Judgment (Doc. 716) to reflect total restitution in the amount
16 of \$2,003,930.

17 Dated this 21st day of July, 2015.

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22 Neil V. Wake
23 United States District Judge
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